

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

MARY TENCH, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:13-CV-19246

COLOPLAST CORP.,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Defendant Coloplast Corp.'s Motion to Dismiss with Prejudice, filed November 19, 2018. [ECF No. 12]. In the Motion, defendant Coloplast Corp. moves to dismiss plaintiffs' claims against it with prejudice for failure to serve a completed plaintiff fact sheet. Plaintiffs have not responded.

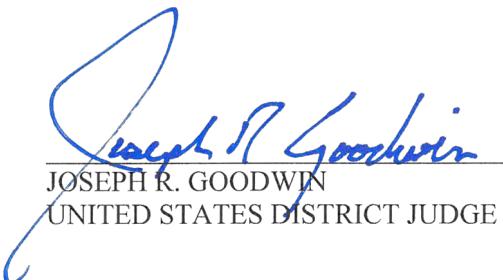
The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), the plaintiffs' claims against Coloplast Corp. should be dismissed without prejudice for failure to produce a completed plaintiff fact sheet in compliance with the court's previous pretrial order.

Therefore, the court **ORDERS** that the Motion to Dismiss [ECF No. 12] is **GRANTED in part to the extent Coloplast Corp. seeks dismissal and DENIED insofar as Coloplast Corp. seeks dismissal with prejudice.** The court **ORDERS** that Coloplast Corp. is dismissed

without prejudice. No additional defendants remain, and the Clerk is **DIRECTED** to dismiss and strike the case from the active docket.

The court further **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 15, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE